

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Carlo Vescovi	Team: Squad #14	CCRB Case #: 202001974	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/27/2020 12:30 AM	Location of Incident: Bedford Avenue and Lafayette Avenue	Precinct: 79	18 Mo. SOL 8/27/2021	EO SOL 4/13/2022	
Date/Time CV Reported Thu, 02/27/2020 12:49 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/09/2020 9:14 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Lynch	05413	958850	081 PCT
2. SGT Michael Kreismer	01611	928598	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Michael Kreismer	Abuse: Sergeant Michael Kreismer stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Kevin Lynch	Abuse: Police Officer Kevin Lynch frisked § 87(2)(b)	
C.POM Kevin Lynch	Abuse: Police Officer Kevin Lynch searched the vehicle in which § 87(2)(b) was an occupant.	
D.POM Kevin Lynch	Abuse: Police Officer Kevin Lynch damaged § 87(2)(b)'s property.	
E.POM Kevin Lynch	Abuse: Police Officer Kevin Lynch failed to provide § 87(2)(b) with a business card.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On February 27th, 2020, § 87(2)(b) called 911 where he was transferred to IAB and filed the following complaint. This complaint was received at the CCRB on March 9th, 2020.

On February 27th, 2020, at approximately 12:30 am, § 87(2)(b) was driving in the vicinity of Bedford Avenue and Lafayette Avenue in Brooklyn when he was allegedly pulled over by Sgt. Michael Kreismer and Police Officer Kevin Lynch, both of the 81st Precinct (**Allegation A: Abuse of Authority**, § 87(2)(g) PO Lynch told § 87(2)(b) the vehicle smelled like marijuana, at which point he ordered § 87(2)(b) to exit the vehicle. PO Lynch then allegedly frisked § 87(2)(b) and searched § 87(2)(b)'s vehicle (**Allegation B and C: Abuse of Authority**, § 87(2)(g) During the search of § 87(2)(b)'s vehicle, PO Lynch allegedly damaged part of the vehicle's interior near the footbed of the driver's seat (**Allegation D: Abuse of Authority**, § 87(2)(g) PO Lynch did not provide § 87(2)(b) with a business card (**Allegation E: Abuse of Authority**, § 87(2)(g) § 87(4-b) § 87(2)(g)

No arrests or summonses resulted from this incident.

Body worn camera (BWC) footage was received from PO Lynch and Sgt. Kreismer, the relevant aspects of which will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Michael Kreismer stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(b) testified (BR 01) that he was signaled to pull over by the lights and sirens of an unmarked vehicle while changing lanes near the intersection of Bedford Avenue and Lafayette Avenue. § 87(2)(b) said that he did not run a red light prior to the vehicle stop.

PO Lynch and Sgt. Kreismer's BWC footage begins moments before they exit their vehicle and approach § 87(2)(b)'s vehicle. In PO Lynch's BWC footage (BR 02), PO Lynch approaches § 87(2)(b) on the driver's side, and states that § 87(2)(b) ran a red light at Lexington Avenue and Nostrand Avenue, which § 87(2)(b) denied (1:01-1:49), as well as speeding.

In Sgt. Kreismer's CCRB interview (BR 04), he stated that as PO Lynch and Sgt. Kreismer approached the intersection of Lexington Street and Bedford Avenue in Brooklyn, PO Lynch told Sgt. Kreismer that he observed a vehicle ahead pass through a steady red light, speed excessively, and make unsafe lane changes. Sgt. Kreismer did not himself see the vehicle infractions. PO Lynch asked Sgt. Kreismer if he could stop the vehicle and Sgt. Kreismer responded affirmatively.

During PO Lynch's CCRB interview, (BR 03) he stated that the reason for the vehicle stop was that § 87(2)(b) committed a traffic infraction, but he could not recall what infraction he had observed. PO Lynch first observed § 87(2)(b)'s vehicle travelling on Bedford Avenue near Lafayette Avenue. PO Lynch could not recall if he had any conversation with Sgt. Kreismer prior to conducting the vehicle stop. PO Lynch did not give § 87(2)(b) a summons for the alleged traffic violation because he was exercising his discretion as an officer.

In his memo book entry for this incident, Sgt. Kreismer (BR 05) documented that § 87(2)(b) was pulled over for disobeying a steady red signal at the intersection of Bedford Avenue and Lafayette, as well as failure to signal and unsafe lane changes.

§ 87(2)(g)

Allegation (B) Abuse of Authority: Police Officer Kevin Lynch frisked § 87(2)(b)
Allegation (C) Abuse of Authority: Police Officer Kevin Lynch searched the vehicle in which § 87(2)(b) was an occupant.

The investigation established the following facts: After PO Lynch stopped § 87(2)(b)'s vehicle, he approached the driver's side window, whereupon he claimed to smell marijuana emanating from § 87(2)(b)'s vehicle. It is undisputed that PO Lynch frisked § 87(2)(b) near his arms, his waist, and his legs after ordering him to exit the vehicle, and PO Lynch subsequently searched § 87(2)(b)'s entire vehicle, including the passenger compartment, center console, and trunk. No marijuana was recovered pursuant to the frisk or vehicle search.

In PO Lynch's BWC footage, PO Lynch tells § 87(2)(b) that he smells marijuana smoke once § 87(2)(b) rolls down his front driver's window. § 87(2)(b) denies that PO Lynch smells marijuana, stating, "You [PO Lynch] don't smell weed" (1:05-1:10). PO Lynch subsequently searches § 87(2)(b)'s vehicle. During the search of the front passenger seat, PO Lynch states, "Marijuana leaves right there (3:22-3:36). Because it is dark and because PO Lynch moves quickly over the area, the BWC footage does not definitively capture marijuana leaves. As PO Lynch searches the center console, he states, "Marijuana grinder," as he holds an object near the camera (3:36-3:50). Again, because the vehicle is dark and PO Lynch does not hold the object clearly in front of the camera, the BWC footage does not definitively capture a marijuana grinder.

PO Lynch testified that he smelled marijuana once he got to the front driver's section of § 87(2)(b)'s vehicle. PO Lynch was unable to remember if it was the smell of burnt or unburnt marijuana. PO Lynch stated he asked § 87(2)(b) to step out of the vehicle because of the smell of marijuana. PO Lynch subsequently frisked § 87(2)(b) to determine if § 87(2)(b) had any weapons or further contraband on his person. PO Lynch then searched § 87(2)(b)'s vehicle on the basis of the marijuana smell. PO Lynch testified that he had observed marijuana leaves and a marijuana grinder during the search of § 87(2)(b)'s vehicle, but did not issue a summons due to officer discretion.

Sgt. Kreismer testified that PO Lynch informed him of the odor of marijuana after the incident had concluded but that he was not aware of the odor as PO Lynch conducted the frisk and search. Sgt. Kreismer was not aware of any odor of marijuana at the time. He testified that he would not let an officer instruct a civilian to exit a vehicle for a search on the basis of a VTL infraction and stated that when officers do so it is usually because of an odor of marijuana or something illegal in plain sight. Sgt. Kreismer observed PO Lynch frisk § 87(2)(b)'s top half, but did not see anything further as PO Lynch was on the opposite side of the vehicle.

§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Kevin Lynch damaged § 87(2)(b) s property.

§ 87(2)(b) testified that during vehicle search, PO Lynch damaged plastic paneling in the footbed of the front passenger's seat of his vehicle. § 87(2)(b) noticed this damage after he returned to the vehicle when the search was complete.

PO Lynch's BWC footage captures PO Lynch using his hands to search the footbed of the front passenger's seat of § 87(2)(b)'s vehicle (6:49-6:59). However, because it is dark outside, the footage does not distinctly capture his movements with respect to any plastic paneling.

Furthermore, because PO Lynch leans into the vehicle to conduct the search, his body worn camera is partially obstructed and does not capture all of his actions during this period.

PO Lynch testified that he did not recall if he damaged § 87(2)(b)'s vehicle in any way. PO Lynch could not recall if he damaged any plastic paneling on § 87(2)(b)'s vehicle, specifically near the footbed of the front passenger's seat.

Sgt. Kreismer did not observe PO Lynch damage § 87(2)(b)'s vehicle or property at any point, with specific attention to the footbeds in the front seats of § 87(2)(b)'s vehicle.

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Kevin Lynch failed to provide § 87(2)(b) with a business card.

Both PO Lynch's BWC footage (BR 02) and Sgt. Kreismer's BWC footage (BR 06) capture the incident concluding with both officers returning to their vehicle (7:50-7:55, 7:50-8:00) without providing § 87(2)(b) with a business card at any point during the incident. At no point during the footage do either offer § 87(2)(b) a business card.

PO Lynch testified he could not recall if he provided § 87(2)(b) with a business card. PO Lynch stated business cards are only ever provided to civilians upon request.

Sgt. Kreismer testified that a business card should have been offered to § 87(2)(b) during this incident, but he could not recall if PO Lynch did so.

Patrol Guide Procedure 203-09 states a business card is to be offered for law enforcement activity, including search of persons or property, including vehicles (BR 07).

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to one CCRB complaint and has been named a victim in two allegations.
 - § 87(2)(b)
- PO Lynch has been a member of service for five years and has been named a subject in three CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Kreismer has been a member of service for 19 years and has been named a subject in one CCRB complaints and one allegation, which was not substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On March 23rd, 2021 a Notice of Claim Inquiry was sent to the New York City Office of the Comptroller and will be added to the casefile upon receipt (BR 10).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 14

Investigator: C.V. Inv. Carlo Vescovi 04/22/21
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 04/22/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

